**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.765 2004
IN
CRIMINAL APPEAL NO.224 OF 2004

The State of Maharashtra .. Applicant.
Vs.
Devidas Gangaramji
Gadve & Others .. Respondents.

WITH

CRIMINAL APPLICATION NO.766 2004
IN
CRIMINAL APPEAL NO.225 OF 2004

The State of Maharashtra .. Applicant.
Vs.
Devidas Gangaramji
Gadve & Anr. .. Respondents.

Mr.D.S.Mhaispurkar A.P.P. for the State.
Mr.Imtiyaz A.F.Patel for the respondents.

**CORAM : D.B.BHOSALE, J.**
**DATED : 21ST JULY, 2006**

P.C.:

. Heard learned A.P.P. for the applicant-State and learned counsel for the respondents-accused.

2. By this application, the applicant-State is seeking condonation of delay of 880 days caused in filing criminal appeal No.224 of 2004 against the judgment and order dated 6.6.2001 by which the respondents-original accused nos.2, 4 and 5 have been acquitted of the offence punishable under section 498-A read with 34 of I.P.C. It appears that they

were acquitted since at the relevant time they were not staying with accused no.1 and the deceased, besides other reasons recorded by the trial Court. I perused the application. It appears that the last date of filing the said appeal was 14.8.2001. The proposal for filing the appeal send by the learned Directorate of Public Prosecutors, Mumbai itself was made on 10.3.2003. No explanation of whatsoever nature is offered in the application for the delay of about one year five months in forwarding the proposal to Law and Judiciary Department, Mantralaya, Mumbai. Thereafter, the resolution was passed by the Law and Judiciary Department, Mantralaya on 4/5.4.2003 and directed the public prosecutor, High Court, Appellate Side, Mumbai to prefer an appeal. The resolution was received by the office of Public Prosecutor on 7.4.2003. The appeal, however, came to be filed on 12th February, 2004. The cause shown for the condonation of delay of 880 days in filing the appeal is neither sufficient nor satisfactory. In the circumstances this application seeking condonation of delay of 880 days in filing the appeal against the judgment and order of acquittal of accused nos.2, 4 and 5 is rejected.

Criminal Application No.766 of 2004

3. This application and the appeal also arise from the same judgment and order which is impugned in criminal appeal No.224 of 2004. In this matter the delay of 910 days is caused in filing criminal appeal No.225 of 2004. The dates mentioned in the order rejecting application No.765 of 2004 in Appeal No.224 of 2004 and in the present application in appeal No.225 of 2004 are same. The cause shown by the learned A.P.P. seeking condonation of delay of about eight months in preparing and filing the appeal after receipt of the resolution by the Law and Judiciary Department is neither sufficient nor satisfactory. In the circumstances, I have no alternative but to dismiss this application filed in the appeal against original accused no.1 seeking enhancement of the sentence. This application is, accordingly, dismissed.

**(D.B.Bhosale, J.)**